



Office of the Attorney General

State of Texas

August 11, 1993

DAN MORALES

ATTORNEY GENERAL

Mr. Ken Ramirez
Deputy Executive Director
Texas Water Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR93-523

Dear Mr. Ramirez:

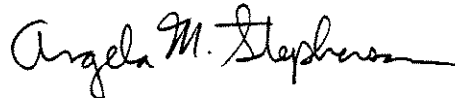
You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 20768.

The Texas Water Commission received an open records request for certain records that you contend may be withheld from the public pursuant to section 3(a)(3) of the Open Records Act. To secure the protection of section 3(a)(3), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 3(a)(3); the requested records may therefore be withheld.

In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 3(a)(3) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 3(a)(3). We also note that the applicability of section 3(a)(3) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Angela M. Stepherson
Assistant Attorney General
Open Government Section

AMS/jcc

Ref.: 20768

Enclosures: Submitted documents

cc: Mr. Frank Gaudat, PE
Regulatory Compliance Services
P.O. Box 170791
Arlington, Texas 78003-0791
(w/o enclosures)